

## MEETING RECORD

**NAME OF GROUP:** City Board of Zoning Appeals

DATE, TIME AND

**PLACE OF MEETING:** Friday, February 28, 2003, 1:30 p.m., Hearing Chambers,  
County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

## MEMBERS AND OTHERS

**IN ATTENDANCE:**

**Members:** Gene Carroll, Tom Wanser, and Linda Wibbels  
(George Hancock and Gerry Krieser absent)

**Others:** Terry Kathe (Building & Safety), Tonya Skinner  
(City Law Dept.), Becky Horner and Michele  
Abendroth (Planning Dept.), applicants and  
other interested parties.

## STATED PURPOSE

**OF THE MEETING:** Regular Meeting of the City Board of Zoning Appeals

### Approval of the minutes of the January 31, 2003 meeting

Mr. Wanser moved approval of the minutes as distributed, seconded by Mr. Carroll. Motion to approve carried 2-0, Wanser and Carroll voting 'yes'; Wibbels abstaining; Hancock and Krieser absent.

**Appeal No. 2351 by Hank Meinke for a variance of the fence height from 76 inches to 98 inches on property generally located at 6400 Old Cheney Road.**

**PUBLIC HEARING**

**February 28, 2003**

Becky Horner stated that she had received a phone call from the property owner who apologized for not being able to attend the meeting as he was out of town. Hank Meinke stated that he was here on behalf of the owner and relayed that the owner wants the fence as high as possible for screening and noise barrier protection. Mr. Carroll asked Mr. Meinke why the owner wanted the 98 inch fence and not 96 inches. Mr. Meinke stated that although it is not critical to have 98 inches, he would like to keep the bottom of the fence out of the dirt. Mr. Carroll then asked if having the 96 inch fence would affect him. Mr. Meinke replied that it would not affect him very much.

Mr. Carroll questioned staff regarding whether it is from grade up to the top of the fence that has to be 96 inches. Terry Kathe confirmed that is correct. Ms. Wibbels questioned the three conditions of which he would be allowed the 96 inch fence. Mr. Kathe stated that the property does not meet the condition of a double frontage lot. Mr. Carroll asked if the properties on either side are approved for 96 inch fences. Mr. Kathe confirmed that they are. Ms. Wibbels stated that if the two adjacent properties have higher fences because they meet the requirements, and this property would have a lower fence, would that negatively impact the properties. Mr. Kathe stated that they look at each lot individually.

Mr. Carroll then asked if there was further testimony on this item. Sandra Hernandez France, residing at 6245 Black Forest Drive, which is on the west side of this property, stated that she is not opposed to the owner having the fence. She noted that her concern is that the plan calls for a 10 foot wide double gate on the fence. Specifically her concern is where the gate is going to be and the purpose of it from the standpoint that there is no curb cut there and there is a bike path. She stated that Mr. Meinke has said that there is a limited purpose. Mr. Meinke responded that there is a manhole on the property that a truck will need to get in to, but stated that he did not know what it is for. He added that the owner wanted to hide

the gate from public view. It was clarified that the gate would be at the same height as the fence and would match the fence.

Mr. Carroll asked staff if the 10 foot gate is okay with code and if there was no access from Old Cheney. Mr. Kathe replied that it meets code, and he did not believe Public Works was going to grant any more access from Old Cheney.

Mr. Carroll asked if there was testimony against the application. With no one appearing, the public hearing was closed.

## **ACTION**

**February 28, 2003**

Mr. Wanser asked a question of Tonya Skinner. Mr. Wanser stated that there appears to be justification for granting the 96 foot variance, but he did not see justification for 98 and asked if they could amend that in the motion. Ms. Skinner replied that they could make that change in the motion.

Mr. Wanser made a motion to approve the application for a variance to 96 inches as opposed to the requested 98 inch variance. Ms. Wibbels seconded.

Mr. Wanser stated that this property is in need of some sound barrier, and the properties on either side are approved for 96 inches, and it seems like it is a reasonable request. Ms. Wibbels and Mr. Carroll agreed. Mr. Carroll stated that based on staff findings that this lot is unusual in that it is the only lot that does not allow for a 96 inch fence, it will allow for conformity along Old Cheney Road.

Motion for approval carried 3-0; Wanser, Wibbels, and Carroll voting 'yes'; Hancock and Krieser absent.

**Appeal No. 2350 by Lee B. Todd for variances to the front yard setback and interpretations of carport and front yard on property generally located at 4500 South 49<sup>th</sup> Street.**

## **ACTION**

**February 28, 2003**

Becky Horner stated that she had received a letter from the applicant indicating that he is out of the country and requested to delay the vote until May. She stated that she has also received additional information; however, that information cannot be distributed as the public hearing was closed, and the only way the information could be entered in to the record is to re-open the public hearing.

Mr. Wanser made a motion to table this application until May, at which time the Board may elect to open it up for further public discussion at that time.

Ms. Skinner stated that there are three options. The first option is to vote on the appeal today, which means the additional information would not be considered. The second option is to postpone the vote on the appeal until April or May to accommodate the owner's request. And the third option is to continue this appeal and re-open it for public hearing in May, so planning staff can present the additional information.

Ms. Wibbels stated that she feels it would be best to open it up for a public hearing at the May meeting.

Mr. Wanser made a motion to open this appeal up for additional public input at the May meeting. Ms.

Wibbels seconded.

Mr. Carroll stated that he agreed with the motion in that it gives fair notice to all parties.

Motion carried 3-0; Wanser, Wibbels, and Carroll voting 'yes'; Hancock and Krieser absent.

There being no further business, Mr. Carroll adjourned the meeting at 1:53 p.m.

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